REMARKS

Pursuant to 37 C.F.R. §1.111, reconsideration of the instant application, as amended herewith, is respectfully requested. Entry of the amendment is requested.

Claims 9-16 are presently pending before the Office, after claims 7-8 are canceled. Applicant has amended the claims. No new matter has been added. Support for the amendments can be found throughout the specification as originally filed. Applicant is not intending in any manner to narrow the scope of the originally filed claims.

The Examiner's Action mailed October 7, 2003 and the references cited therein have been carefully studied by Applicant and the undersigned counsel. The amendments appearing herein and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is believed to be in condition for allowance.

Relying on 35 U.S.C. §103(a), the Examiner has rejected the subject matter of claims 7-8 as obvious over Stone in view of Roberts and Weiser. Applicant respectfully traverses the rejection and requests reconsideration.

a) Stone et al. (US Patent No. 2,887,422) relates to a method of heat treating aluminum alloy of the precipitation hardenable class. The invention is classified in Class 148/688 in US Classification and is not at all concerned with the present invention classified in Class 427/98. Also, the apparatus disclosed in '422 does not include various means (see new claims), which are essential in the present invention.

b) Roberts et al. (US Patent No. 1,936,689) relates to metal treatment and apparatus, but specifically to "a machine for shearing off sub-lengths from long substantially rigid metal stock" (claim 1), and is not concerned with the apparatus of the present invention, as amended herein. Also, the apparatus disclosed in '689 does not include various means (see amended claims), which are essential in the present invention.

c) Weiser et al. (US Patent No. 2,702,766) does not include various means either, which are essential in the present invention.

d) Terakado et al. (US Patent No. 4,395,021), commented by the Examiner as pertinent but not relied upon, relates to a vertical continuous annealing furnace and its operation method, either purpose or construction of which is different from that of the apparatus of the present invention.

Accordingly, the Examiner has not established a prima facie case of obviousness. Clearly, in the absence of any suggestion to, and in view of the absence of any teaching whatsoever of how one skilled in the art would attempt to combine the cited references to produce the present invention, one skilled in the art would certainly not find ample motivation to use the features of the cited references (as suggested by the Examiner) to arrive at the present invention.

The Office has used the claimed invention as a reference against itself as if it had preceded itself in time. Legal authority invalidates such an analytical or reverse engineering approach to patent examination. It is not Applicant's burden to refute the Office's position that it would have been obvious to one of ordinary skill in this art at the time this invention was made to arrive at the present invention in view of the cited references. It is the burden of the Office to show some teaching or suggestion in the reference to support this allegation. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d at 1051, 5 U.S.P.Q.2d at 1438-39 (Fed. Cir. 1988).

A finding by the Office that a claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made based merely upon finding similar elements in a prior art reference would be "contrary to statute and would defeat the congressional purpose in enacting Title 35." Panduit Corp. v. Dennison Mfg. Co., 1 U.S.P.Q.2d 1593 at 1605 (Fed. Cir. 1987). Accordingly, Applicant respectfully submits that newly presented claims 9-16 are patentable over the cited references under 35 U.S.C. §103(a). Withdrawal of the rejection is respectfully requested.

CONCLUSION

Even though the initial claims in this important patent application were drawn to a new, useful and nonobvious invention, they have now been amended to increase their specificity of language. Applicant respectfully submits that claims 9-16 are patentable over the art of record.

A Notice of Allowance is earnestly solicited.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 538-3800 would be appreciated.

Very respectfully,

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